

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of

Applicants : Victor A. Raul et al
Serial No. : 10/576,991
Filed : March 6, 2007
Title : A CONTROLLED-RELEASE COMPOSITION FOR TOPICAL APPLICATION
AND A METHOD OF DELIVERING AN ACTIVE AGENT TO A SUBSTRATE
Docket : DOC 0170 PA/40218.354
Examiner : Pihonak, Sarah
Art Unit : 1617
Confirm. No. : 5824

EFS Web Electronic Submission

August 7, 2009

MAIL STOP AMENDMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION AND SPECIES ELECTION REQUIREMENTS

This paper is responsive to the Office Action mailed July 7, 2009. In that Action, the Examiner required Applicants to elect one of the following inventions for initial examination:

Group I – claims 1-17, drawn to a composition; and

Group II – claims 19-41, drawn to a method.

Applicants hereby elect Group I, claims 1-17. Applicants also request that claim 18, which was not listed by the Examiner as belonging to either group, be examined along with claims 1-17. The preamble to claim 18 incorrectly refers to a “method;” however, claim 18 depends from claim 1 and will be amended to correctly recite that it is a composition claim.

Also in the Office Action, the Examiner made a further species election requirement. Specifically, if applicants elect Group I, which they have done, then the Examiner requires a further election of species as follows:

- a) as the silicone component, applicants elect the reaction product of a hydroxy endblocked polydimethylsiloxane polymer and a hydroxy functional silicate resin (trimethylsiloxy and hydroxy endblocked silicate resin) (claims 10-11);

- b) as the surfactant, applicants elect the anionic surfactant triethanolamine linear alkylate sulfonate (spec., page 7 [0023]);
- c) as the thickening agent, applicants elect polyvinyl alcohol (claim 17); and
- d) as the active agent, applicants elect the lipophilic drug ketoconazole (spec., page 8 [0026]).

Applicants believe that the elected species are readable on claims 1-7, 9-12, 14-16, 17 (with polyvinyl alcohol elected), and 18.

Applicants note that the Examiner has stated that currently claim 1 is generic. Should a generic claim be allowed, applicants understand that the species election requirement will be withdrawn. Also, should the composition claims be allowed, applicants understand that the restriction requirement may be withdrawn and the non-elected method claims may be rejoined.

Applicants await an action on the elected invention and species and the claims readable thereon.

Respectfully submitted,
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